

Kentucky Medicaid Program Beneficiary Cost Sharing Public Notice

In accordance with 42 CFR 447.57, the Cabinet for Health and Family Services (CHFS), Department for Medicaid Services (DMS) announces its intent to file a state plan amendment with the Centers for Medicare and Medicaid Services (CMS) no later than October 1, 2013, amending the cost sharing obligations of Kentucky Medicaid beneficiaries. The cost sharing obligations will become effective on January 1, 2014 and be the same for all Medicaid beneficiaries, thus, the cost sharing applies to the “new” eligibility groups authorized by the Affordable Care Act as well as the “old” or existing Medicaid eligibility groups. So there will be a uniform set of cost sharing rules in the Medicaid program whether an individual is eligible under the old rules or the new rules.

The new eligibility groups include individuals in what is known as the “Medicaid expansion group.” This group will include adults who meet **ALL** of the following conditions:

The adult is under the age of 65;

The adult is not pregnant;

The adult is not otherwise eligible for Medicaid benefits; **AND**

The adult has income under 138% of the federal poverty level

Another new eligibility group consists of former foster care individuals between the ages of 19 and 26 who aged out of foster care while receiving Medicaid coverage.

Another group consists of individuals who would be eligible under existing Medicaid rules but will be eligible under new rules known as modified adjusted gross income (or MAGI) standards beginning January 1, 2014.

Lastly, there are individuals who would be eligible under existing rules which will remain in place after January 1, 2014.

The cost sharing will apply for ALL groups, beginning January 1, 2014.

In making this announcement of its cost sharing, DMS is also soliciting public comments on the cost sharing. Instructions on how to submit comments are stated at the bottom of this notice.

Cost Sharing Amounts

Following are the cost sharing amounts for Medicaid beneficiaries (except for the exempted individuals listed further below) effective January 1, 2014:

Outpatient Services

- \$4 - Outpatient hospital or surgery
- \$3 – Health professional office visit
- \$3 – Physical therapy, occupational therapy, speech therapy
- \$3 - Laboratory, diagnostic, radiology services

Durable Medical Equipment

- \$4 - durable medical equipment (the cost sharing applies per date of service)

Inpatient Hospital Stay

- \$50 - inpatient hospital stay

Drugs

- \$1 – generic drug
- \$4 – preferred brand name drug
- \$8 – non-preferred drug

Non-Emergency Care in an Emergency Room

- \$8 -non-emergency care/services in an emergency room

Total cost sharing cannot exceed an aggregate of 5% of a family's income per calendar quarter (3 months)

Exempt from Cost Sharing (Except for the \$8 Non-preferred Drug Cost Sharing Obligation)

All Medicaid beneficiaries are obligated to pay the \$8 cost sharing for a non-preferred drug, with no exceptions.

In addition to the \$8 non-preferred drug cost sharing obligation, all Medicaid beneficiaries, except for the following individuals are required to pay the cost sharing amount due for a given service. As established in federal regulation 42 CFR 447.53 and federal law 42 USC 1396o, the following individuals (or services) are exempt from cost sharing obligations except for the \$8 non-preferred drug costs sharing:

- (1)*Children*.—Services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over but under 21) are excluded from cost sharing.
- (2)*Pregnant women*.—Services furnished to pregnant women if such services related to the pregnancy, or to any other medical condition which may complicate the pregnancy are excluded from cost sharing obligations. These services include routine prenatal care, labor and delivery, routine postpartum care, family planning services, complications of pregnancy or delivery likely to affect the pregnancy, such as hypertension, diabetes, and urinary tract infection, and services furnished during the postpartum period for conditions or complications related to the pregnancy. The postpartum period is the immediate postpartum period which begins on the last day of pregnancy and extends through the end of the month in which the 60-day period following termination of pregnancy ends. States may further exclude from cost sharing all services furnished to pregnant women if they desire.
- (3)*Institutionalized individuals*.—Services furnished to any individual who is an inpatient in a hospital, long-term care facility, or other medical institution if the individual is required (pursuant to §435.725, 435.733, 435.832, or 436.832), as a condition of receiving services in the institution, to spend all but a minimal amount of his income required for personal needs, for medical care costs are excluded from cost sharing.
- (4) *Emergency services*—Services as defined at section 1932(b)(2) of the Act and §438.114(a).
- (5)*Family planning*.—Family planning services and supplies furnished to individuals of child-bearing age are excluded from cost sharing.
- (6) *American Indians*.—Items and services furnished to an American Indian directly by an American Indian health care provider or through referral under contract health services.
- (7) Services furnished to an individual who is receiving hospice care
- (8) Preventive services

Managed Care

Any managed care organization participating in Kentucky's Medicaid program is allowed to impose cost sharing on beneficiaries up to, but not exceeding, the cost sharing amounts established by DMS. A managed care organization is required to exempt the same individuals and services from cost sharing that DMS exempts.

DMS's Preferred Drug List

DMS's preferred drug list can be viewed via the following websites:

<https://kentucky.magellanmedicaid.com/>

https://kentucky.magellanmedicaid.com/RemoteFiles/PROD/PDL/KY_PDL.pdf

Hospitals Charging Cost Sharing for Non-Emergency Services

All hospitals participating in Kentucky's Medicaid Program are required to impose the cost sharing amounts for non-emergency care/services stated in this notice.

Paying Cost Sharing/Receipt of Services Based on Cost Sharing (Non-Pharmacy)

A beneficiary is expected to pay the cost sharing obligation at the time of receiving the health care service, drug, or item/supply. If a beneficiary is unable to pay a cost sharing amount at the time of receiving a service, the beneficiary may be allowed to receive the service (unless it is a dispensing of a drug prescription and that circumstance is described further below) without paying the cost sharing at the time of receiving the service but is still obligated to pay the cost sharing later. If the beneficiary never pays the cost sharing amount due to a given provider, the health care provider may refuse to provide a service to the beneficiary the next time the beneficiary seeks to get a service from the health care provider if the health care provider :

- Notifies the beneficiary of this policy in advance; and
- Applies the same policy to all beneficiaries regardless of payer source (Medicare, Medicaid, employer health insurance, private health insurance)

A health care provider:

- Must collect from a beneficiary the cost sharing amount imposed for the given service;
- Cannot waive the beneficiary's obligation to pay the cost sharing amount;
- May collect a cost sharing obligation at a later date if the beneficiary does not have it at the time of service; and
- May refuse, as stated above, to provide a service to a beneficiary if the provider has provided a service to the beneficiary in the past and the beneficiary has still not paid the cost sharing obligation for the past service and the provider notifies the beneficiary of this policy in advance and applies this policy to all individuals who receive services from the provider regardless of payer source (Medicaid, Medicare, employer health insurance, private health insurance)

Pharmacy Cost Sharing Obligation

A pharmacist may refuse to dispense a prescription to a beneficiary who does not pay the cost sharing amount at the time of picking up the prescription even if it is the first time that the pharmacist has prepared a prescription for the beneficiary; however, in this circumstance the pharmacist must dispense a 72-hour supply of the prescribed drug if the beneficiary has an emergency condition which requires an emergency supply of the drug.

Public Comments

If you wish to submit written comments regarding this cost sharing notice please do so by emailing them to medicaidrates@ky.gov or by dropping them off at the Department for Community Based Services (DCBS) office in your county, or by mailing them to the following address:

Department for Medicaid Services
Cost Sharing Comments
Commissioner's Office, 6W-A
275 East Main Street
Frankfort, KY 40601

The following website can be used to find the address of your local DCBS office.
https://apps.chfs.ky.gov/office_phone/index.aspx